

There are several interesting items included in this e-mail:

1) HIPAA Provider Number format and content may be an issue under HIPAA. Below is the site of the current DRAFT Provider Taxonomy that Sara Gilb discussed at our last HIPAA Workgroup Meeting. You may wish to review it to be certain your provider types are noted and contact Sara at Sgilb@dmhhq.state.ca.us if you have concerns.

2) There are 2 HIPAA Presentations that may be of interest.

3) As part of the Aug. 20 HIPAA Meeting Announcement that went out earlier today, there was an updated meeting list that you may wish to review.

4) "Manual vs. Electronic Claims Submission" may present an issue that will concern some of us.

Many thanks to Helen Novak (ADP), Sara Gilb (DMH), Sharon Winsberg (DMH) and many others for their efforts and contributions to this

Enjoy!!!
Ken

TOPICS below include:

- 2 HIPAA Presentations - see attachments
- Provider Taxonomy Web-site
- Manual vs. Electronic Claims Submission
- Privacy Officer job descriptions
- Level 3 HCPCS codes mapping
- Electronic 'transactions' vs 'transmissions'
- CHILD WELFARE covered by the Privacy Act???
- Telephone voice response systems are "electronic transmissions"
- Privacy - Security Notice Agreement Process
- Help on XML and HIPAA
- [hipaalert] HIPAAAlert: Volume 2 No. 10 August 6, 2001 - see attachment
- 1. From the Editors: Hot Summer Survey Findings -- and More.
- 2. HIPAA Survey: Implementation is IN -- Industry Delay is OUT!
- 3. HIPAAviews: From the 925 Surveyed -- Compliance Rants and Raves
- 4. HIPAAnews: Stymied Reg Delaying Tactics; DHHS Still on Track
- 5. HIPAAadvisor: When Does "Minimum Necessary" Apply?

***** 2 HIPAA Presentations - see attachments *****

A Capital HIM Technology Symposium, September 13-14, 2001

A First Rate Assembly on Technology, Healthcare and Health Information Management,
at The DoubleTree Hotel Sacramento, co-sponsored by California Health Information Association
and Northern and Southern California Chapters HIMSS

HIPAA -- Sharing Best Approaches and HIPAA Privacy and Security --Performing Gap
Analyses and Setting Standards on FRIDAY, AUGUST 10, 2001 IN OAKLAND

SEE ATTACHMENT FOR DETAILS

***** Provider Taxonomy Web-site *****

Below is the site for the Current DRAFT Provider Taxonomy the Sara discussed at the last HIPAA Workgroup Meeting. You may wish to review it to be certain your provider types are noted and contact Sara at Sgilb@dmhhq.state.ca.us if you have any concerns.
Ken

>>> Sara -Jane Gilb 08/06/01 03:43PM >>>

The web site for the provider taxonomy is <http://www.wpc-edi.com/taxonomy/>

***** Manual vs. Electronic Claims Submission *****

In answer to a question by Helen Novak, Information Security Officer, Department of Alcohol & Drug Programs,
(916) 323-9832

*** This is HIPAAlive! From Phoenix Health Systems ***

.....

A County, a State, or other geographic and political subdivision is not likely to be a covered entity as such under HIPAA. However, some individual agencies of these political subdivisions are quite likely to be. This revolves around what roles these agencies play within health care.

If an agency provides medical services, it will probably qualify as a provider under HIPAA. If an agency pays health care claims, then it will probably qualify as a health plan or payer under HIPAA. And if an agency converts health care data from a non-standard format to a standard format, or vice versa, for another agency of the subdivision, or for any other entity qualifying as either a provider or a health plan, then it will be covered as a HIPAA Clearinghouse.

The HIPAA electronic transactions and code set requirements (TCS) would only apply to those business transactions for which the standards are specific, and only when they are conducted electronically. Thus, an agency functioning as a provider could avoid the direct effects of the TCS rule by not conducting any of the business transactions described in that rule electronically. They would still be subject to a variety of indirect effects, since it probably won't be practical for the industry to support different code sets for different media, etc. But they could still avoid the direct effects this way.

The same cannot be said for the final Privacy rule, however, since HHS asserts that this rule applies to any data that is maintained electronically, and not just that data that is used in the mandated transactions. The validity of this extension is one of the issues raised in both the South Carolina Medical Society and the AAPS lawsuits. But, minus a court decision to the contrary, any covered entity would be covered for this purpose as long as they used some type of electronic data processing, excluding fax and other technologies that move data without manipulating it. Thus, an agency that did electronic data processing for another agency that functioned as a provider, but simply printed hardcopy claims or reports as the means of doing the billing, would not be covered by the TCS rule, but probably would be covered by the Privacy rule.

The "conduit" distinction is made to avoid regulating those entities and processes that simply move data around without using or transforming it. Thus, the phone company, a VAN, etc., would not be covered if all they were doing is moving the data from one point to another. For example, an agency that managed a city-wide or state-wide communications network wouldn't be covered simply on that account. But they would be covered by the privacy rule if they routinely used individually identifiable health care data for some business purpose, and they would be covered by the TCS rule if they converted the data to or from one of the standard formats.

I could see where a provider who does not currently process data electronically could reasonably defer moving in that direction, at least until some of the technical and political bugs have been worked out of the HIPAA processes. But I suspect that it would be far more problematic for any potentially covered entity to revert to purely manual processing simply to avoid coverage by the HIPAA Administrative Simplification regulations.

And I would also argue very strongly that the TCS rule is in fact designed to help providers by limiting the variety of ways that payers can require that a claim be presented, and that claim status and claim payment can be reported. It may not feel very "voluntary", of course. The privacy rule is a far more complex, and more political, critter, of course.

- Zon Owen -
(808)597-8493

*** This is HIPAAlive! From Phoenix Health Systems ***
According to the definition of the term "covered entity" given in ? 160.103:

"Covered entity means: (1) A health plan. (2) A health care clearinghouse. (3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by this subchapter."

Therefore, a health care provider who runs a "paper-only" office is exempt from compliance with the HIPAA privacy and security regulations. I believe the point that Bill Braithwaite was making was that a person who currently conducts one or more transactions electronically is not "locked in" to covered entity status. Such a provider could conclude that the benefits of electronic claims processing did not justify the costs imposed by HIPAA compliance and choose to revert to paper processing.

Elsewhere, the definition of "health care clearinghouse" indicates that an organization must translate transaction data between standard and non-standard formats to meet the definition. An organization that acts as a conduit, by moving data from one entity to another without doing any processing of the data, is not a health care clearinghouse.

This is clarified in the preamble on Federal Register page 82573:

"We clarify that entities acting as simple and routine communications conduits and carriers of information, such as telephone companies and Internet Service Providers, are not clearinghouses as defined in the rule unless they carry out the functions outlined in our definition. Similarly, we clarify that value added networks and switches are not health care clearinghouses unless they carry out the functions outlined in the definition, and clarify that such entities may be business associates if they meet the definition in the regulation."

Bye for now -- Harry

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*** This is HIPAAlive! From Phoenix Health Systems ***
Let me try turning your question around ...

The development of HIPAA legislation and regulation has for a very long time been based on the concept that participation by providers should be voluntary. There is an extremely wide variation in sizes and types of providers, and so, given that HIPAA is intended to improve efficiency and save costs, it seemed reasonable to allow the 'triggering' organizations (i.e., the providers) the entity-by-entity opportunity to individually determine if following HIPAA made economic and business sense.

Some mechanism for providers to 'declare' that they had volunteered to follow HIPAA needed to be established. That mechanism became the free choice of whether or not to electronically transmit [directly or indirectly using a business associate such as a billing service] one or more of a specified set of business transactions (e.g., claims).

Thus, if a provider electronically transmits one or more of the specified transactions, they have volunteered to follow all of HIPAA (e.g., transactions, code sets, privacy, security). [But even when they start to use electronic transmission, providers are still free to pick and choose which transactions are sent in what mode to which recipients under which conditions.] If a provider stays solely and only with paper for all of the specified transactions, then none of HIPAA need be followed. Additionally, what a provider does regarding transmission of transactions that are not included in the HIPAA specified set has no bearing on whether or not they have elected to follow HIPAA.

In order to ensure that the provider's choice was as straight-forward as possible, virtually all health plans are mandated to follow all of HIPAA.

Does the above help answer your question about the remarks you and others were hearing on this Subject? [I've intentionally skipped responding to the clearinghouse issue in this message for brevity.]

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*** This is HIPAAlive! From Phoenix Health Systems ***

Providers need to adopt the standards if they submit claims electronically or if they retain a billing agency or other third party to submit claims and the third party submits electronically. If a provider continues to stick with paper, he or she is not covered (unless the provider hires a third party to do the job electronically).

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***** Privacy Officer job descriptions *****

*** This is HIPAAlive! From Phoenix Health Systems ***

from psmith@apwuhp.com
Try www.ahima.org

*** This is HIPAAlive! From Phoenix Health Systems ***

The AHIMA Web site has a good one. Also lots of policy guidance and other information.

Jennifer Humbert
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<http://www.ahima.org/hipaa/PrivacyOfficer2001.htm>

***** Level 3 HCPCS codes mapping *****

*** This is HIPAAlive! From Phoenix Health Systems ***

Level 3 HCPCS codes are generally specific to a state. I have a mapping for the codes used in California and would be happy to send you a copy offlist.

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***** Electronic 'transactions' vs 'transmissions' *****

*** This is HIPAAlive! From Phoenix Health Systems ***

Allow me to suggest that an electronic 'transmission' is not the same as an electronic 'transaction' under HIPAA. Many communications that are electronic 'transmissions' are not electronic 'transactions'.

The HIPAA Electronic Transactions [not transmissions] regulation is written in the context of Electronic Data Interchange (EDI). From my perspective, one of the fundamental characteristics of EDI is that information is exchanged using ASCII [or EBCDIC or ...] encoded characters. IMHO, if an electronic exchange does not use encoded characters to represent information, then it is not EDI, and hence outside the context of HIPAA.

For examples ...

- X12 message is an electronic transaction [uses encoded characters]
- Television is an electronic transmission [even if it's a picture of a UB92 or HCFA 1500 form]
- FAX is an electronic transmission [it's just a scanned image like television]
- Telephone voice call is an electronic transmission
- Voice Response Unit (VRU) output is an electronic transmission [it's just a computer-generated voice call]
- VRU input is an electronic transmission [touch tones are merely a special variation of a voice]

DHHS recognizes the difference between electronic 'transactions' and electronic 'transmissions'. Reiterating what Eddie G. Anderson noted yesterday afternoon, DHHS has clarified this distinction in one of their FAQ's at <http://aspe.os.dhhs.gov/admsimp/q0055.htm>:

"Question: If a health care provider faxes a health care claim form, must the transaction comply with the standard?
Answer of 12/28/2000: Fax imaging and voice response transmissions are not subject to the HIPAA transactions standards but may have to meet privacy and security standards. Health plans may continue to offer these services, however, they must still be able to accept and send the HIPAA standard transactions."

Again, note the clear distinction between the words 'transaction' and 'transmission'.

As always, I hope this helps and welcome further comments.

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***** CHILD WELFARE covered by the Privacy Act??? *****
*** This is HIPAAlive! From Phoenix Health Systems ***

Many Child Welfare Agencies (or Social Service Agencies) are part of a Hybrid entity (such as a County Government), and may or may not be considered a health care component of the "hybrid" covered entity. The Privacy rules (164.504(a)(i)(ii)) state that a non-healthcare component becomes part of the healthcare component if it would be considered a business associate if they were separate legal entities - or - the activities between the two involve the use or disclosure of PHI from or on behalf of the health care component. There is a definite trend today to develop multidisciplinary programs consisting of healthcare, social services, education, probation, etc. As such, one would have to consider the above rule, and unless I'm missing something, the non-healthcare components would become part of the healthcare component, thereby covered. I'd appreciate seeing different views on this topic as we're considering this question in California.

*** This is HIPAAlive! From Phoenix Health Systems ***

If contracts exist between the child welfare agency and providers of service for psychiatric evaluations, routine physicals, etc., the provider may consider the agency a business partner. This would

require the agency to comply through contract with related HIPAA provisions. They may not be a covered entity because they don't provide direct care but may be, from a practical perspective, covered.

This is sometimes complicated by the fact that the state is the legal guardian, placing the state in a different position than an agency merely contracting for services. It is likely, though, there are a number of cases where the state agency contracts for services prior to the awarding of guardianship. All of this something for the agency to address with counsel...

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*** This is HIPAAlive! From Phoenix Health Systems ***

Unless they are transmitting any of the defined HIPAA transactions electronically a child welfare agency is not a covered entity and thus not bound by the Privacy rule. However, the caseworkers are securing healthcare services for their clients from healthcare providers who could be covered entities. Healthcare providers, as required by their state laws, can disclose PHI in the event of actual or suspected child abuse, this is focused more on reporting purposes than ongoing treatment. The rule recognizes persons acting in loco parentis (this may describe the case workers) as the personal representative of the child; the personal representative is treated as the individual for the purposes of the privacy rule. There are some exceptions, 164.502 (g)(1-3). Other family members would have to authorize access to their PHI. State law could supercede the HIPAA rules and should be thoroughly reviewed for applicability and impact. I do not think that any of the business associate provisions would apply as a child welfare agency is providing a service for and acting on behalf of the child, not a covered entity.

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*** This is HIPAAlive! From Phoenix Health Systems ***

Unless the child welfare agency performs one of the covered functions (providing health care, underwriting, translating standard transactions, etc.) it is not a covered entity and thus not subject to the HIPAA regs. If a caseworker secures care for a child from a covered health care provider it is the provider who is responsible for the protection of health information that pertains to the child, not the agency. (Obviously, state laws may place some restrictions on the use and disclosure of such health information but HIPAA applies only to covered entities.) If the caseworker is acting in loco parentis, the health care provider is required by HIPAA to disclose health information that pertains to the child to the caseworker.

Bye for now -- Harry

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***** Telephone voice response systems are "electronic transmissions" *****

*** This is HIPAAlive! From Phoenix Health Systems ***

Yes. Telephone voice response systems are specifically mentioned in the privacy rule preamble as an example of "electronic transmission." Good point.

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***** Privacy - Security Notice Agreement Process *****

*** This is HIPAAlive! From Phoenix Health Systems ***

I with a Pharma company and have been with a PBM, both have a strict notice that pops up on the screen, before you even get to the main page, while you are logging on so to speak, if you do not agree to:

IT is the company policy that all information internally communicated between departments should remain within this company. If there is a need to share information, at all times it must be approved by management before being released. If you have statistics, data, proposals, references to past information or future information it must be within the confines of the company policy before being shared with anyone outside of the company.

Please read company policy on personal use of all computers, passwords, and the outcome of misuse. By reading this notice, before you sign on you are agreeing you have done so, and are aware of all policies and procedures. In the situation of a violation to the above it would include termination and possible criminal charges depending on the actions taken.

I so agree,..... click and you are committed!

Does that answer the question from one angle ? It's monitored very closely by IT and the amount of time spen on websites etc, and what type. There are many that are totally unaccesible unless you have a security clearance. Mainly our research people. They are watched continuously. Signed forms are given at the time of hire and the issue is covered very firmly, to make a strong impression.

The phrase is not something I can't share, as it gives you no company data, but the data is so confidential and competitive, it could be devastating to an area of the business.

Now the sad part, in the industry, people leave and go from one to the other, so once they leave, unless they take a client blatantly, there is not much that can be done. It merely is used to address while you are on the premises.

Work with a guy from Buffalo too! New Yorkers ! They're everywhere!

:):):)

Bordy

***** Help on XML and HIPAA *****

*** This is HIPAAlive! From Phoenix Health Systems ***

Can anyone tell me how XML is useful in HIPAA implementation? I have been hearing a lot about the combination of XML and HIPAA. How is XML going to be helpful in transforming propreitery formats into HIPAA format??

Answer:

Try this link out.

<http://lists.xml.org/archives/xml-dev/199901/msg00206.html>

this one too if you don't know about XML

http://searchmiddleware.techtarget.com/sDefinition/0,,sid26_gci213404,00.htm

I

Basically, it provides a common data format that proprietary systems can be converted to for transactions.

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